

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:  
**Chadwick Adams**

Case No. 09-80092  
Chapter 13

Social Security No. xxx-xx-0161  
Address: 133 Post Oak Lane, Raeford, NC 27330-

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Debtor

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**SECOND MOTION TO MODIFY PLAN**

**NOW COMES the Debtor**, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on January 22, 2009, with the Chapter 13 plan being subsequently confirmed on April 21, 2009.
2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:  
  
From:           \$630.00 per month.  
  
To:             \$630.00 per month through February 2011, followed thereafter by \$268.00 per month, starting in May 2011.
3. In addition, the Debtor requests a "waiver" to move his Chapter 13 plan payment delinquency to the end of the Chapter 13 plan for payment. As a condition of receiving these waivers the Debtor agrees that, should any subsequent payments be more than thirty (30) days delinquent within the twelve (12) months following the entry of this Order, that the Debtor's case may be dismissed without further hearing by the Court. The Debtor agrees that any Order allowing such waivers shall not be *res judicata* as to timely Motions for Relief filed by secured creditors in this case.
4. The changed circumstances that justify the proposed modification are as follows:
  - a. The Debtor's wife continues to suffer from lupus and kidney stones, making it difficult for her to maintain steady employment.
  - b. The Debtor and his wife had a child six (6) months ago.
  - c. The Debtor's income at his previous job, which was commission based, declined substantially. To compensate, the Debtor has enlisted with the United States Army,

at a lower, but more steady, income.

5. An Amended Schedule I for the Debtor is attached hereto and is incorporated hereto by reference.
6. An Amended Schedule J for the Debtor is attached hereto and is incorporated by reference.
7. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
  - a. Change in dividend to unsecured creditors.
  - b. Loss of disposable income.
  - c. Increase in expenses due to wife's medical condition and birth of a child.

**Appended Application for an Additional Attorney Fee**

8. Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

WHEREFORE, the Debtor prays that this Court grant his Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: March 15, 2011

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward C. Boltz  
Edward C. Boltz  
North Carolina State Bar No.: 23003  
6616-203 Six Forks Road  
Raleigh, N.C. 27615  
(919) 847-9750

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Social Security No. xxx-xx-0161

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**CERTIFICATE OF SERVICE**

I, Patty Cherigo, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on March 15, 2011, I served copies of the foregoing **SECOND MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II  
Chapter 13 Trustee  
Michael West  
U.S. Bankruptcy Administrator

Chadwick Adams  
133 Post Oak Lane,  
Raeford, NC 27330-

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Patty Cherigo  
Patty Cherigo

In re **Chadwick Mills Cole Adams**Case No. **09-80092**

Debtor(s)

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
<b>Married</b>	RELATIONSHIP(S): <b>child</b>	AGE(S): <b>6 months</b>
<b>Employment:</b>	<b>DEBTOR</b>	<b>SPOUSE</b>
Occupation	<b>Health Care Specialist</b>	<b>Medical Asst</b>
Name of Employer	<b>US Army</b>	<b>Mid Carolina Gastroenterology</b>
How long employed	<b>11 months</b>	<b>6 months</b>
Address of Employer	<b>Fort Bragg, NC</b>	<b>(NON - FILING SPOUSE) 110 Dennis Drive Sanford, NC 27330</b>

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)  
2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ <b>3,010.97</b>	\$ <b>1,708.90</b>
\$ <b>0.00</b>	\$ <b>0.00</b>

## 3. SUBTOTAL

\$ <b>3,010.97</b>	\$ <b>1,708.90</b>
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## 4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security  
b. Insurance  
c. Union dues  
d. Other (Specify):

\$ <b>322.13</b>	\$ <b>284.31</b>
\$ <b>22.69</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>

## 5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ <b>344.82</b>	\$ <b>284.31</b>
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## 6. TOTAL NET MONTHLY TAKE HOME PAY

\$ <b>2,666.15</b>	\$ <b>1,424.59</b>
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7. Regular income from operation of business or profession or farm (Attach detailed statement)  
8. Income from real property  
9. Interest and dividends  
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above  
11. Social security or government assistance (Specify):  
12. Pension or retirement income  
13. Other monthly income (Specify):

\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>

## 14. SUBTOTAL OF LINES 7 THROUGH 13

\$ <b>0.00</b>	\$ <b>0.00</b>
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## 15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ <b>2,666.15</b>	\$ <b>1,424.59</b>
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## 16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

\$ <b>4,090.74</b>
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(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

**-NONE-**

In re **Chadwick Mills Cole Adams**

Case No. **09-80092**

Debtor(s)

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) -  
AMENDED**

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

- |  |   |    |          |
|--|---|----|----------|
| 1. Rent or home mortgage payment (include lot rented for mobile home)  |   | \$ | 610.00   |
| a. Are real estate taxes included?   | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |    |          |
| b. Is property insurance included?   | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |    |          |
| 2. Utilities:  |   | \$ | 200.00   |
| a. Electricity and heating fuel  |   | \$ | 35.00    |
| b. Water and sewer   |   | \$ | 0.00     |
| c. Telephone   |   | \$ | 320.00   |
| d. Other <b>See Detailed Expense Attachment</b>  |   | \$ | 50.00    |
| 3. Home maintenance (repairs and upkeep)   |   | \$ | 500.00   |
| 4. Food  |   | \$ | 69.00    |
| 5. Clothing  |   | \$ | 40.00    |
| 6. Laundry and dry cleaning  |   | \$ | 180.00   |
| 7. Medical and dental expenses   |   | \$ | 250.00   |
| 8. Transportation (not including car payments)   |   | \$ | 50.00    |
| 9. Recreation, clubs and entertainment, newspapers, magazines, etc.  |   | \$ | 250.00   |
| 10. Charitable contributions   |   | \$ | 25.00    |
| 11. Insurance (not deducted from wages or included in home mortgage payments)  |   | \$ | 32.00    |
| a. Homeowner's or renter's   |   | \$ | 51.74    |
| b. Life  |   | \$ | 150.00   |
| c. Health  |   | \$ | 0.00     |
| d. Auto  |   | \$ | 0.00     |
| e. Other   |   | \$ | 0.00     |
| 12. Taxes (not deducted from wages or included in home mortgage payments)  |   | \$ | 20.00    |
| (Specify) <b>Personal Property Taxes</b>   |   | \$ | 0.00     |
| 13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)   |   | \$ | 0.00     |
| a. Auto  |   | \$ | 0.00     |
| b. Other   |   | \$ | 0.00     |
| c. Other   |   | \$ | 0.00     |
| 14. Alimony, maintenance, and support paid to others   |   | \$ | 0.00     |
| 15. Payments for support of additional dependents not living at your home  |   | \$ | 0.00     |
| 16. Regular expenses from operation of business, profession, or farm (attach detailed statement)   |   | \$ | 0.00     |
| 17. Other <b>See Detailed Expense Attachment</b>   |   | \$ | 1,258.00 |
| 18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.) |   | \$ | 4,090.74 |
| 19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:                                 |   |    |          |
| <b>None</b>  |   |    |          |
| 20. STATEMENT OF MONTHLY NET INCOME  |   |    |          |
| a. Average monthly income from Line 15 of Schedule I   |   | \$ | 4,090.74 |
| b. Average monthly expenses from Line 18 above   |   | \$ | 4,090.74 |
| c. Monthly net income (a. minus b.)  |   | \$ | 0.00     |

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED****Detailed Expense Attachment****Other Utility Expenditures:**

Cablevision	\$	120.00
Cellular Phone	\$	200.00
Total Other Utility Expenditures	\$	320.00

**Other Expenditures:**

Pet Expenses	\$	20.00
Emergencies/Miscellaneous	\$	100.00
Personal Grooming	\$	100.00
Ch. 13 Plan Payment	\$	268.00
College Expenses	\$	220.00
Child Care Expenses	\$	550.00
Total Other Expenditures	\$	1,258.00

# CH. 13 PLAN - DEBTS SHEET

## (MIDDLE DISTRICT - STEP PLAN)

Date: 3/1/11

Lastname-SS#: Adams-0161-MTM

### RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

Creditor Name	Sch D #	Description of Collateral

### SURRENDER COLLATERAL

Creditor Name	Description of Collateral

### ARREARAGE CLAIMS ON RETAINED COLLATERAL

Creditor Name	Sch D #	Arrearage Amount

### REJECTED EXECUTORY CONTRACTS LEASES

Creditor Name	Description of Collateral

### LTD - DOI on PRINCIPAL RESIDENCE - OTHER REAL PROPERTY

Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
			n/a	n/a		
			n/a	n/a		
			n/a	n/a		

### STD - SECURED DEBTS (Retain Collateral & Pay FMV of Collateral)

Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
			7.00			
			7.00			
			7.00			
			7.00			

### STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)

Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
GMAC		\$8,109	5.25	\$81	\$244	06 Chevy
			5.25			
			5.25			
			7.00			
			7.00			

### ATTORNEY FEES (Unpaid Part)

Law Offices of John T. Orcutt, P.C.	Amount
	\$313

### SECURED TAXES

IRS Tax Liens	Secured Amount

### Real Property Taxes on Retained Realty

UNSECURED PRIORITY DEBTS	Amount

### IRS Taxes

State Taxes	Amount

### Personal Property Taxes

Alimony or Child Support Arrearage	Amount

### COSIGN PROTECT (Pay 100%)

All 'Co-Sign Protect Debts (See***)	Int. Rate	Payoff Amount

### GENERAL NON-PRIORITY UNSECURED

DMT - None(\$0)	Amount to Pay

### Other Miscellaneous Provisions

### PROPOSED CHAPTER 13 PLAN

\$ 268 /month for 36 months, then

\$ N/A /month for N/A months.\*\*

### Definitions

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

\* = Minimum of DMT x ACP, minus all co-sign protect debt.

\*\* = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

\*\*\* Co-sign protect on all debts so designated on filed schedules D, E and F

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